

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

UNITED STATES OF AMERICA,	§	
	§	
	§	
v.	§	No. A-22-MJ-00330-DH
	§	
FLAVIO CASTELAN-VENCES,	§	
<i>Defendant</i>	§	

ORDER

Before the Court are the Government's Motion to Detain, Dkt. 3, and Defendant Flavio Castelan-Vences' Motion to Dismiss Criminal Complaint with Prejudice, Dkt. 10, and Motion for Release from Custody, Dkt. 13. The Court set these motions for hearing on June 13, 2022. For the reasons stated on the record in that hearing, the Court makes the following rulings:

The Court **DENIES AS MOOT** Defendant's Motion to Dismiss, Dkt. 10. Counsel for Defendant orally withdrew this motion on the record during the hearing, without prejudice to be reasserted at a later date.

As for the remaining two motions, as noted on the record, the Court finds that the Government did not comply with its obligation under 18 U.S.C. § 3060(b)(1) to provide Defendant with a preliminary hearing within 14 days of his initial appearance, and that the exceptions for (1) consent by the Defendant, or (2) "a showing that extraordinary circumstances exist and justice requires the delay," *id.*, § 3060(c), do not apply in this case. Accordingly, the Court hereby **GRANTS**

Defendant's Motion for Release from Custody, Dkt. 13, and **DENIES** the Government's Motion to Detain, Dkt. 3.

DIRECTIONS REGARDING DETENTION

Defendant is currently committed to the custody of the United States Marshall. Based on the foregoing rulings, Defendant should be immediately released from that custody. However, the record reflects that Defendant is also subject to an Immigration Detainer filed by the Department of Homeland Security, U.S. Immigration and Customs Enforcement.¹ Accordingly, the Court hereby **ORDERS** the United States Marshall to take the necessary measures to transfer custody of Defendant to the Department of Homeland Security, U.S. Immigration and Customs Enforcement.

SIGNED June 13, 2022.



DUSTIN M. HOWELL
UNITED STATES MAGISTRATGE JUDGE

¹ The ICE detainer is attached as an exhibit to this Order.